

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

JANE ROE, et al

Plaintiffs,

v.

UNIVERSITY OF CINCINNATI,

Defendant

Case No. 1:22-cv-376

Judge: Jeffrey P. Hopkins

NOTICE OF SUPPLEMENTAL
AUTHORITY

ORAL ARGUMENT REQUESTED

Plaintiffs respectfully submits this Notice of Supplemental Authority concerning Defendant's Motion to Dismiss the Amended Complaint. (Doc#18.)

Plaintiffs bring to the Court's attention a recent decision by the Sixth Circuit in *S.C. v. Metro. Govt. of Nashville & Davidson Cty.*, 6th Cir. No. 22-5125, 2023 U.S. App. LEXIS 30424, at *7 (Nov. 15, 2023). In that case, the Sixth Circuit reaffirmed the court's prior decision recognizing the validity of "before" deliberate indifference claims, *Doe v. Metro. Govt. & Davidson Cty.*, 35 F.4th 459, (6th Cir. 2022). (*See* Plaintiff's Response to Motion to Dismiss, Doc#20, at PageID#229-231.) In *S.C.*, the Sixth Circuit reaffirmed finding that a school may be liable if it maintained a policy of deliberate indifference to reports of sexual misconduct which created a heightened risk of sexual harassment that was known or obvious in a context subject to the school's control. Such "before" claims are viable even where the plaintiff was not the prior victim of sexual harassment. (*See* Motion to Dismiss, Doc#18, PageID#142; Reply in Support of Motion to Dismiss, Doc#22, PageID#250-251.)

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been electronically served via the Courts ECF system this November 20, 2023 upon all counsel of record.

/s/ Joshua Engel

Joshua Engel